

proposal will be considered a categorical exclusion regardless of the category into which the proposal would otherwise be included. Where the Borrowers propose to cumulatively own 5 percent or less of a project, the proposal will normally be considered a categorical exclusion. Where the Borrowers propose to cumulatively own 33⅓ percent or more of a project, the proposal will be treated in its usual category. Where the Borrowers propose to cumulatively own more than 5 percent but less than 33⅓ percent of a project, RUS will determine whether the Borrowers have sufficient control and responsibility to alter the development of the project. Consideration will be given to such factors as: (a) Whether construction would be completed regardless of RUS financing assistance; (b) the stage of project planning and construction; (c) total Borrower participation; (d) participation percentage of each utility in the project; and (e) managerial arrangements and contractual provisions.

§ 1794.31 Categorical exclusions (proposals normally requiring neither an EIS nor an EA).

(a) Borrower proposals that do not individually or cumulatively have a significant effect on the environment and do not normally involve significant unresolved conflicts concerning alternate use of available resources, do not require an EIS or EA. In order to provide for extraordinary circumstances, such proposals may require development of a Borrower's Environmental Report (BER) or the equivalent.

(b) Certain types of Borrower proposals do not require a BER. Proposals of this type are subject to the requirements of § 1794.41. Proposals within this classification are:

- (1) Purchase of land where use will remain unchanged.
- (2) Routine approvals made pursuant to loan and security documents (*e.g.*, contracts for bulk commodities, fuel, goods and services, capital credit retirements, technical specifications).
- (3) Agreements for transmission, wheeling, interconnection with, power purchase from, or sale to other utilities where no associated Borrower con-

struction or financing of construction is involved.

(4) Additional or substitute financing assistance for proposals which have previously received environmental review and approval from RUS, provided that environmental considerations have not changed.

(5) Rehabilitation or reconstruction of roads, railroad tracks, roadbed, bridges and other transportation facilities within transportation rights-of-way or generating facility sites where there is no substantial increase in use. A description of the rehabilitation or reconstruction shall be provided to RUS.

(6) Primary fuel or mineral contracts where, considering all the facts and circumstances, the Borrower does not have effective control over or responsibility to alter the development of the specific fuel or mineral source (*e.g.*, mine).

(7) Changes or additions to existing substations or switching stations or external changes to buildings or small structures requiring new physical disturbance or fencing of less than 0.4 hectare (0.99 acre). A description of changes and additions shall be provided to RUS.

(8) Internal modifications or equipment additions (*e.g.*, computer facilities, relocating interior walls) to small structures or buildings.

(9) Internal or minor external changes to electric generating or fuel processing facilities and related support facilities where there is negligible impact on the outside environment. A description of the changes shall be provided to RUS.

(10) Ordinary maintenance or replacement of equipment or small structures (*e.g.*, line support structures, microwave facilities, valves).

(11) The construction of telephone and communication lines and cables at existing power related facilities sites.

(12) Supervisory control and data acquisition systems (SCADA) and energy management systems involving no new external construction.

(13) Testing work (*e.g.*, test borings or cores, water test wells).

(14) Studies and engineering undertaken to define a proposal or alternatives sufficiently so that environmental effects can be assessed.

(15) The construction of electric power lines within an existing substation, switching station or electric generating facility site. A description of the facilities to be constructed shall be provided to RUS.

(16) Contracts for certain items of equipment which are part of a proposal for which RUS is preparing an EA or EIS, and which meet the limitations on actions during the NEPA process set forth in §1794.21 (*e.g.*, long lead time items such as turbines or boilers).

(17) Internal RUS administrative actions (*e.g.*, personnel actions, procurement) and RUS bulletins that do not concern environmental matters or substantial facility design, construction or maintenance practices.

(c) Certain types of Borrower proposals normally require Borrower submission of a BER or its equivalent. Proposals of this type are subject to the requirements of §1794.42. Proposals within this classification are:

(1) The construction of electric power lines and associated facilities designed for or capable of operation at a nominal voltage of either:

(i) Less than 69 kV (low side) or

(ii) Less than 230 kV (low side) if both:

(A) No more than 40 kilometers (24.85 miles) of power line are involved, and

(B) Substations and switching stations require new physical disturbance or fencing of no more than 2 hectares (4.94 acres) at any single site nor more than 4 hectares (9.88 acres) for all sites.

(2) The construction of electric power lines where less than 5 kilometers (3.11 miles) of line are involved.

(3) The construction of telephone and communication lines, cables and facilities.

(4) The construction of other small structures or buildings such as microwave facilities, cooperative headquarters, maintenance facilities, etc., involving no more than 2 hectares (4.94 acres) of physical disturbance or fencing.

(5) Participation by a Borrower(s) in any proposed project where total Borrower financial participation in the un-

derlying project will be five (5) percent or less.

(6) Purchase of existing facilities or a portion thereof where use or operation will remain unchanged and which presently are in compliance with environmental laws and regulations.

(7) Additional bulk commodity storage (*e.g.*, coal, peat, lignite, limestone, etc.) within existing generating station boundaries.

(8) SCADA and energy management systems which require new external construction.

(9) Reconductoring or upgrading of existing telephone or power lines where either the same or substantially equivalent support structures at the approximate existing support structure locations are used.

(10) Proposals designed to reduce the amount of pollutants released into the environment (*e.g.*, precipitators, baghouse or scrubber installation, coal washing plant and equipment) which have no other environmental impact outside of the existing facility site.

(11) Changes or additions to existing substations or switching stations or external changes to buildings or small structures requiring 0.4 hectare (0.99 acre) or more but no more than 2 hectares (4.94 acres) of new physically disturbed land or fenced property.

(12) Construction of diesel electric generating facilities of less than 3 megawatts (MW) (nameplate rating) at an existing generating site. All new associated facilities and electric power lines related to the generating proposal shall be covered in the BER.

(13) Modification of an existing hydroelectric project or dam that will have a total installed capacity of 1.5 MW (nameplate rating) or less and which will result in no change in the normal maximum surface area or normal maximum surface elevation of an existing impoundment. All new associated facilities and electric power lines related to the generating proposal shall be covered in the BER.

§ 1794.32 Proposals normally requiring an EIS.

(a) Actions that may significantly affect the quality of the human environment require preparation of an EIS. An